

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of) Examiner: Joanne Hama
Mitchell Weiss et al.) Art Unit: 1632
Serial No. 10/824,448) File Ref: CHOB.0189US
Filed: April 14, 2004)
For: "Alpha-Hemoglobin)
Stabilizing Protein)
Transgenic Mouse and)
Methods of Use Thereof")

DECLARATION OF MITCHELL WEISS, GERD BLOBEL, YI KONG AND
ANTHONY J. KIHM

We, Mitchell Weiss, Gerd Blobel, Yi Kong, and Anthony J. Kihm hereby declare that:

1. We are co-inventors of the invention described and claimed in U.S. Patent Application Serial No. 10/824,448 (the '448 application).
2. We have read and are familiar with the contents of the Official Action dated May 6, 2005 in the '448 application. We note that the Examiner has rejected claims 1-8 under 35 U.S.C. §102(a) as allegedly anticipated by the disclosure in Kihm et al. *Nature* 417: 758 (2002).. We also note that the Examiner has rejected claims 9-13 over the combined disclosures of Kihm et al (2002) and Capecchi et al. (1989).
3. Kihm et al. forms the basis of US Provisional Application 60/477,991 from which the present application properly claims priority. The '991 application was filed June 12, 2003.
4. The other authors listed on the *Nature* manuscript, namely Wei Hong, J. Eric Russell, Susan Rouda, Kazuhiko Adachi, and M. Celeste Simon were working under the guidance and direction of Dr. Mitchell Weiss and did not make an inventive contribution to the subject matter claimed in the '448 application.

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We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the above-referenced application or any patent issued thereon.

DATE

Mitchell Weiss

DATE

11/6/05

Gerd Blobel

Xi Kong

DATE

Anthony J. Kihm

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